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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/081,674

02/22/2002

Fermin Ruiz

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2114

32116 7590 05/29/2007
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER

GELLNER, JEFFREY L

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/081,674

Applicant(s)

RUIZ ET AL.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18,23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> |

Continuation of Attachment(s) 6). Other: translation in English of CN 104922A.

DETAILED ACTION

The suspension of prosecution initiated on 8 February 2007 for four months is withdrawn, or revoked. Upon review and reconsideration of the prior art prosecution is reopened. The allowability of claims 18, 23, and 24 is withdrawn. Examiner regrets any inconvenience to Applicants.

Information Disclosure Statement

Acknowledgement is made of the IDS received 16 October 2006. A sign 1449 accompanies this office action. A translation in English of CN 85104922A is provided with this office action as a courtesy to Applicants.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Posa (US 5,832,660) in view of Traut (US 5,083,396).

As to claim 18, Posa discloses a nonwoven fabric consisting of spunbond filamentary elements formed from thermoplastic polymers ("spun-bonded polypropylene" of col. 2 lines 44-57) that is formed into a sheet (see Fig. 4) with finite length and width, with modifying regions

Art Unit: 3643

of the fabric by printing (“visual indicia” of col. 3 lines 44-57) that would inherently occlude light transmittance therethrough, with seams in the fabric formed with sewing (when 5K is used as fastening means; 5K being “adhesive tape,” see col. 5 line 1), and positioned about a shrub (from col. 1 lines 4-7) that would inherently protect the shrub from dust and/or insects. Not disclosed is the plant an agricultural product prior to harvesting. Traut, however, discloses the used of sheets to protect agricultural shrubs before harvest (“blueberries,” “blackberries,” and “raspberries” of col. 4 lines 13-17; before harvest in that sheet is used to protect the crop against birds - see abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the fabric of Posa by using with an agricultural crop before harvest as disclosed by Traut so as to reduce effects of bird predation on the crop. The fabric of Posa as modified by Traut inherently performs the method steps of claim 18.

As to claims 23 and 24, Posa discloses a nonwoven fabric consisting of spunbond filamentary elements formed from thermoplastic polymers (“spun-bonded polypropylene” of col. 2 lines 44-57) that is formed into a tube (see Fig. 3) with finite length and width, with modifying regions of the fabric by printing (“visual indicia” of col. 3 lines 44-57) that would inherently occlude light transmittance therethrough, with seams in the fabric formed with sewing (from Fig. 4 when 5K is used as fastening means; 5K being “adhesive tape,” see col. 5 line 1), and positioned about a shrub (from col. 1 lines 4-7) that would inherently protect the shrub from dust and/or insects. Not disclosed is the plant an agricultural product prior to harvesting. Traut, however, discloses the used of sheets to protect agricultural shrubs before harvest (“blueberries,” “blackberries,” and “raspberries” of col. 4 lines 13-17; before harvest in that sheet is used to protect the crop against birds - see abstract). It would have been obvious to one of ordinary skill

Art Unit: 3643

in the art at the time of the invention to modify the fabric of Posa by using with an agricultural crop before harvest as disclosed by Traut so as to reduce effects of bird predation on the crop.

The fabric of Posa as modified by Traut inherently performs the method steps of claim 23.

Response to Arguments

Applicant's arguments with respect to claims 18, 23, and 24 have been considered (that claims are allowable) but are moot in view of the new ground(s) of rejection.

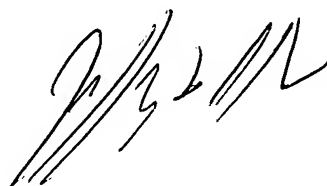
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'J. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner
Primary Examiner
Art Unit 3643